

Office of the Electricity Ombudsman

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone-cum-Fax No.: 011-26141205)

Appeal No.765/2016

IN THE MATTER OF:

Shri Javinder Singh - Appellant

Vs.

M/s Tata Power Delhi Distribution Ltd. – Respondent

(Appeal against order dated 26.09.2016 passed by CGRF- TPDDL in CG No. 7265/05/16/SMB)

Present:

Appellant:

- 1. Shri Javinder Singh
- 2. Shri K.L. Hans, advocate

Respondent:

- 1. Shri Vivek, Senior Manager (Legal), TPDDL
- 2. Shri Aditya Mishra, Asstt Manager, TPDDL

Date of Hearing: 11.01.2017

Date of Order: 18.01.2017

ORDER

1. Appeal No. 765/2016 has been filed by Shri Javinder Singh, s/o Shri Puran Singh, on behalf of M/s Bhart Exports (registered consumer) of _____ against CGRF-TPDDL's order in CG No.7265/05/16/SMB dated 26.09.2016.

2. The background is that the Appellant's meter was replaced on 16.07.2015. While the accuracy of the meter was found to be all right, he has been charged arrears of about 2.13 lakhs for the period 30.11.2014 to 16.07.2015 on the ground that the previous meter had not recorded the consumption correctly during the above period. The Appellant has objected to the demand as being illegal and arbitrary, saying the meter should have been tested through a third party which the Discom (Respondent) had failed to do, raising the arrears bill after the replaced meter had been destroyed by them.

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3. According to the Appellant the CGRF has not taken into account the initial report of the correct meter and has wrongly concluded that the readings were incorrect during the period mentioned above. Further, he has stated that the CGRF has not taken into cognizance the fact that he had filed a case before the Public Grievances Cell (PGC) of the Delhi Government on the same issue in February, 2016 and which, in its order 25.02.2016, had held that the declaration of the meter as faulty without it being actually tested in a laboratory and without pin pointing a specific defect, was an erroneous finding which could not be relied upon and that an assessment bill for arrears could not be raised.

4. The Discom, for its part, has reiterated the stand it took before the CGRF to the effect that the meter was inspected on 18.06.2015 when it was determined that the billing could be finalised only after analysing the meter's data. A new meter was, therefore, installed on 16.07.2015 and the removed meter analyzed in the laboratory during which it was found that it had not been recording the consumption properly between 30.11.2014 to 16.07.2015. An assessment bill, restricted to a maximum of six months of the defective period on the basis of the average consumption recorded between 31.10.2013 to 09.11.2014 was prepared for arrears amounting to about 2.13 lakhs. Regarding the issue of a third party test of the meter, the Discom has claimed the onus to dispute or refuse to sign the test report was on the consumer under Regulation 38(1)(g) of the DERC's Supply Code & Performance Standards Regulations, 2007. They have therefore opposed this demand of Appellant as being an afterthought.

5. I have heard both parties. It is a matter of record that the Appellant had approached the Public Grievances Cell (PGC) which had ordered on 25.02.2016 that no assessment bill be raised for the period in question as the Discom had failed to produce the necessary analysis data. The Discom states that the working of the meter was erratic and not recording the consumption properly during the period in question between Nov 2014 and July 2015 as evidenced by the data downloaded by them. Accordingly, the bill for this period was estimated on the basis of the consumption for a six-month period in accordance with Regulation 43 of the Code mentioned above and the Appellant duly informed of the revision. Discom has also stated that, coincidentally enough, the Presiding Member of the PGC, which passed the verdict above, later became the Chairman of the CGRF which has upheld the assessment made by the Discom as correct and payable on the basis of the analysis data produced.

6. A perusal of the records shows that the assessment raised by the Discom is based on data downloaded by the Automated Meter Reading (AMR) system and which clearly depicts that the meter in question was erratic in performance between November 2014 and July 2015 till it was replaced. The AMR system of automatic recording and collection of consumption, diagnostic and status data from a meter is a technology which permits billing to be based on near real time consumption parameters. The data downloaded reveals that the meter was recording intermittently during the period in question. Power was nevertheless being supplied during this period as is evident from an examination of data relating to load survey and local power failures. The erratic behaviour of the meter only resulted in an intermittent recording of electricity consumption. In other words, this does not mean that no power was being continuously supplied or that no power was being used by

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the Appellant during this period. Incidentally, it is intriguing that, despite the high-end AMR technology available to the Discom, they seemed to have remained blissfully unaware of the meter's erratic behaviour for so many months.

7. Given the fact, therefore, that electricity was being used by the Appellant during this period, it is incumbent upon him to pay the dues for what he has consumed. The basis on which the consumption for the period of intermittent operation of the meter can be estimated is the average consumption pattern for a period of one year prior to the meter becoming defective as prescribed by Regulation 43 supra. While specifying this formula, this Regulation also limits the billing for the defective period to a maximum of six months only. In the instant case, the defective period works out to 228 days (from 30.11.2014 to 16.7.2015) but, in accordance with the Regulations 43 formula, the billing will be for only 6 months or 180 days with the benefits, if any, accruing to the Appellant. The CGRF's order upholding the assessment raised by the Discom is, therefore, in order.

8. The sequence of the events in this case, however, reveals serious deficiencies on the part of the Discom in the manner in which it has handled the case. Although the meter was not recording properly from 30.11.2014, the Discom carried out an inspection only after a lapse of more than six months on 18.06.2015. No cogent explanations are forthcoming for this delay. On top of this, they concluded that the meter was erratic and raised a demand after a lapse of about a year. Compounding these lapses, the Discom then proceeded to destroy the old meter after downloading its data and before raising the assessment. The Discom's excuse that this was done as the Appellant had failed in the first place to demand an inspection of the meter by a third party is frivolous at best and worthy of outright dismissal. It is very difficult to understand how the Appellant could possibly have come to know that meter was not recording properly when nothing was conveyed to him by the Discom at the time of inspection of the meter, its replacement, analysis of the downloaded data and ultimately its destruction before suddenly springing the new assessment on him.

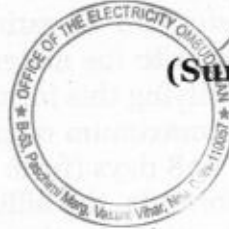
9. It would not be out of place here to note that during the deliberations before the PGC, the Discom was not able to cite any assessment order indicating the reasons as to why the meter was declared faulty in the first place, thus resulting in the verdict against them. The intent and content of the PGC's order should have been abundantly clear, yet the Discom opted to home in on the word "opinion" in the PGC's order, interpreting it to its own advantage by holding that it is merely an opinion and therefore, by extension, non-binding and proceeding to raise the demand although the PGC's order had expressly ruled it out. This action on the part of the Discom can only be described as mischievous at best. Had the Discom been more proactive in its approach, this issue would not have arisen at the first place and resulted in an unnecessary dragging of the case through the PGC, the CGRF and, finally, the Ombudsman with consequent inconvenience and harassment to all concerned.

10. Given the above background, it is held that the Appellant is liable to pay for the electricity which has obviously been consumed during the period the meter recordings were intermittent and which has to be calculated in accordance with Regulation 43 of the Code of 2007 mentioned in paragraph 4 above. At the same time, I have no hesitation in holding the Discom guilty of a gross deficiency in services rendered. The order of the CGRF upholding the assessment raised by the

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Discom is, therefore, in order but is amended to the extent that a consolidated compensation of Rs.15,000/- for deficiency in services on the part of the Discom is hereby awarded to the Appellant to be paid by the Discom to him within two weeks from the date of receipt of this order.

The appeal is disposed off accordingly.



Sundaram Krishna
**(Sundaram Krishna)
Ombudsman
18.01.2017**